

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-398
Administrative Law Judge Division
March 4, 2021

RESOLUTION

RESOLUTION ALJ-398. Modifies Resolution ALJ-381 approving modifications to the Rules of Practice and Procedure (Title 20, Division 1, of the California Code of Regulations)

SUMMARY

Resolution ALJ-381 approved modifications to the Rules of Practice and Procedure (Title 20, Division 1, of the California Code of Regulations) which were submitted to the Office of Administrative Law (OAL) for review and transmittal to the Secretary of State and publication in the California Code of Regulations. In reviewing the submittal, OAL identified a portion of the discussion in Resolution ALJ-381 and the text of several proposed rules that require clarification. This resolution modifies the identified proposed rules to provide those clarifications.

1. Non-substantive modifications to text of proposed rules:
 - Wherever a proposed rule cites to Pub. Util. Code § 1701.8 as an authority, it is modified to also cite to the statute as a reference.
 - Pub. Util. Code § 1701.8 is added as an authority and reference citation to proposed Rules 1.3, 7.3, 8.3, 8.5, and 14.6.
 - Proposed Rule 1.18(a) is modified to correct the cross reference to 13.14(a) to be 13.15(a).
 - Proposed Rule 1.3 is modified to consistently move the placement of quotation marks across the definitions of proceeding categories.
 - Proposed Rule 2.4(b) is modified to properly incorporate the identified guidelines by reference.
 - Proposed Rule 2.9(a) is modified to clarify that it does not apply to catastrophic wildfire proceedings.

2. Substantive modifications to text of proposed rules:

- Proposed Rule 1.18 is modified to clarify the rule and to extend its applicability to all Commission proceedings as required by Pub. Util. Code § 1701.1.
- Proposed Rule 2.9(c) is modified to clarify the circumstances that qualify a proceeding for expedited treatment.
- Proposed Rules 2.9(e), 2.9(g) and 7.5(b) are modified to clarify the assigned Commissioner's discretion under the rules.
- Proposed Rule 12.1(a) is modified to clarify the scope of its applicability.

3. Revisions to discussion:

- The statement of reasons for proposed new Rule 1.18 is modified to clarify that public comment is not evidence.
- The statements of reasons for proposed new Rule 2.9 and for proposed changes to Rule 12.1 are modified to comport with the substantive modifications to the text of the proposed rules.

NOTICE AND COMMENTS

The draft resolution was served on all persons on the service list maintained by the Commission for the purpose of providing notice of proposed revisions to the Rules of Practice and Procedure for public review and comment in accordance with Pub. Util. Code § 311(g)(1), Article 14 of the Commission's Rules of Practice and Procedure, and Rule 18 of Resolution ALJ-377. Comments were received on February 16, 2021 from Pacific Gas and Electric Company (PG&E).

PG&E seeks to expand the definition of "catastrophic wildfire proceeding" set forth in proposed Rule 1.3(b) to include applications to recover costs of implementing wildfire mitigation plans pursuant to Pub. Util. Code § 8386.4(b)(2)¹ in order to implement Section 8386.4(b)(2)'s requirement that the proposed decisions in such applications issue within 12 months of the initiation of the proceeding. We decline to adopt this recommendation for the following reasons.

As discussed in Resolution ALJ-381, Assembly Bill (AB) 1054² amended Section 1701.1 to add a new "catastrophic wildfire proceeding" category and added Section 1701.8 to establish procedures governing catastrophic wildfire proceedings. Resolution ALJ-381 adopts proposed Rule 1.3(b) to add the new "catastrophic wildfire proceeding" category and adopts proposed amendments to Rules 2.1 and 2.6, 7.2, 7.3, 13.2 and 14.6

¹ All subsequent references are to the Pub. Util. Code.

² Stats. 2019, ch. 79.

to implement Section 1701.8's provisions regarding, respectively, the deadline for issuing a proposed decision, the deadline for setting and holding a prehearing conference, the deadline for issuing a scoping memo, the designation of the assigned Commissioner as presiding officer, and the ability to shorten the time for public comment on the proposed decision.

There is no statutory reason to categorize Section 8386.4(b)(2) applications as catastrophic wildfire proceedings and thereby subject them to the procedures governing catastrophic wildfire proceedings apart from the statutorily required 12-month deadline for issuing a proposed decision. Section 1701.8 is specific in its definition of applicable applications to be categorized as catastrophic wildfire proceedings and does not include Section 8386.4(b)(2) proceedings.

While it may be appropriate to consider a future amendment to Rule 2.1(c) and Rule 2.6(d) to incorporate Section 8386.4(b)(2) applications into the Rules of Practice and Procedure, PG&E did not raise this proposal timely in comments on Resolution ALJ-381, and incorporating into the rules is not required to effectuate Section 8386.4(b)(2) at the Commission.

IT IS RESOLVED that:

1. Appendix A to Resolution ALJ-381 is replaced with Appendix A attached to this resolution.
2. The first two paragraphs under heading 7 on page 5 of Resolution ALJ-381 are modified as follows:

In order to promote public engagement in Commission proceedings, new Rule 1.18 allows members of the public to submit written comment electronically on the Commission's website. This rule also sets out new requirements to ensure that public input will be recorded ~~accorded due weight consistently~~ across all proceedings. It requires that all written public comment ~~in a ratesetting or quasi-legislative proceeding~~ be entered into the administrative record of that proceeding, ~~and considered by the Presiding Officer in arriving at a decision.~~ Relevant public comment will be summarized in the final decision in order to highlight issues raised by members of the public. Additionally, parties may cite and respond to public comment in their submissions.

These new provisions are intended to encourage members of the public to more closely engage in Commission proceedings, ~~allowing the Commission to arrive at informed decisions that fully consider the interests of everyone impacted.~~ The Presiding Officer will have the discretion to disregard any comments not relevant to issues in the proceeding's scoping memo in order to guard against misuse of the rule. Consistent with Section 1701.1(g), written public comments shall not be treated as evidence.

3. The second paragraph under heading 11 on pages 7 through 8 of Resolution ALJ-381 is modified as follows:

In order to ensure that only applications that truly merit an expedited schedule are treated as such, and ensure the best possible use of Commission resources, requests for an expedited schedule will only be granted ~~in exceptional cases, and~~ at the sole discretion of the assigned Commissioner. The applicant must demonstrate that the application concerns a public safety threat or ~~a major direct financial impact to customers for resolving the proceeding justifying an expedited schedule or~~ the need to resolve a financial matter expeditiously to avoid ratepayer harm. This will ensure that an appropriately narrow set of applications are accorded expedited treatment.

4. The paragraph under heading 20 on pages 10 through 11 of Resolution ALJ-381 is modified as follows:

Rule 12.1 governing settlements currently does not require disclosure of separate agreements ~~or financial relationships~~ between the parties that are ~~outside the scope of the proposed settlement but~~ related to issues in the proposed settlement but are not disclosed in the settlement (e.g., if a party agrees to a proposed settlement as a condition for receiving a benefit not expressed in the proposed settlement's terms). Under the current rule, decisionmakers may not have the opportunity to consider all relevant information when evaluating whether a proposed settlement before the Commission is in the public interest. The ~~outside settlement or financial relationship agreement~~ may be material to the Commission's evaluation of a proposed settlement, and disclosure by party motion will aid that evaluation. The proposed modifications to Rules 12.1(a) and (d) require the disclosure of such separate agreements or financial relationships.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on March 4, 2021, the following Commissioners voting favorable thereon:

/s/ RACHEL PETERSON

Rachel Peterson
Executive Director

MARYBEL BATJER
President

DARCIE HOUCK
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners

APPENDIX A

PROPOSED MODIFICATIONS TO RULES OF PRACTICE AND PROCEDURE

The originally proposed insertions and deletions to the current Rules of Practice and Procedure are shown in underline and ~~strikethrough~~, respectively.

The initially revised insertions and deletions are shown in double underline and ~~double strikethrough~~, respectively. (Double underline and double strikethrough supersede any co-existing single underline or single strikethrough, i.e., ~~single underline/double strikethrough~~ indicates that the originally proposed insertion is now deleted, and double underline/single strikethrough indicates that the originally proposed deletion is now re-inserted.)

The subsequently revised insertions and deletions are shown in *italicized underline* and ~~*italicized strikethrough*~~, respectively. (Italicized underline and italicized strikethrough supersede any co-existing single or double underline or single or double strikethrough.)

1.3. (Rule 1.3) Definitions.

(a) "Adjudicatory" proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

(b) "Catastrophic wildfire" proceedings are proceedings in which an electrical corporation files an application to recover costs and expenses pursuant to Public Utilities Code Section 451 or 451.1 related to a covered wildfire as defined in Public Utilities Code Section 1701.8.

~~(b)~~(c) "Category," "categorization," or "categorized" refers to the procedure whereby a proceeding is determined to be an "adjudicatory," "ratesetting," or "quasi-legislative," or "catastrophic wildfire" proceeding.

~~(c)~~(d) "Financial interest" means that the action or decision on the matter will have a direct and significant financial impact, distinguishable from its impact on the public generally or a significant segment of the public, as described in Article 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the Government Code.

~~(d)~~(e) "Person" means a natural person or organization.

~~(e)~~(f) "Quasi-legislative" proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry, even if those proceedings have an incidental effect on ratepayer costs.

~~(f)~~(g) "Ratesetting" proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). "Ratesetting" proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. Other proceedings may be categorized as ratesetting, as described in Rule 7.1(e)(2).

~~(g)~~(h) "Scoping memo" means an order or ruling describing the issues to be considered in a proceeding and the timetable for resolving the proceeding, as described in Rule 7.3.

Note: Authority cited: Sections 1701 and 1701.8, Public Utilities Code.
Reference: Sections 1701, ~~and 1701.1~~ and 1701.8, Public Utilities Code.

1.4. (Rule 1.4) ~~Participation in Proceedings~~Party Status.

(a) A person may become a party to a proceeding by:

- (1) filing an application (other than an application for rehearing pursuant to Rule 16.1), petition, or complaint;
- (2) filing (i) a protest or response to an application (other than an application for rehearing pursuant to Rule 16.1) or petition, or (ii) comments in response to an order instituting rulemaking;
- (3) making an oral motion to become a party at a prehearing conference or hearing; or
- (4) filing a motion to become a party.

(b) A person seeking party status by motion pursuant to subsection (a)(3) or (a)(4) of this rule shall:

- (1) fully disclose the persons or entities in whose behalf the filing, appearance or motion is made, and the interest of such persons or entities in the proceeding; and
- (2) state the factual and legal contentions that the person intends to make and show that the contentions will be reasonably pertinent to the issues already presented.

(c) The assigned Administrative Law Judge may, where circumstances warrant, deny party status or limit the degree to which a party may participate in the proceeding.

(d) Any person named as a defendant to a complaint, or as a respondent to an investigation or a rulemaking, is a party to the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

1.9. (Rule 1.9) Service Generally.

(a) Except as otherwise provided in these rules or applicable statute, a requirement to serve a document means that a copy of the document must be served on each person whose name is on the official service list for the proceeding and on the assigned Administrative Law Judge (or, if none is yet assigned, on the Chief Administrative Law Judge).

(b) Except as otherwise provided in these rules or applicable statute, all documents that are tendered for filing pursuant to Rule 1.13 must be served.

(c) Service of a document may be effected by personally delivering a copy of the document to the person or leaving it in a place where the person may reasonably be expected to obtain actual and timely receipt, mailing a copy of the document by first-class mail, or electronically mailing the document as provided in Rule 1.10, except that documents that are electronically tendered for filing as provided in Rule 1.14 must be served by e-mail as provided in Rule 1.10. Service by first-class mail is complete when the document is deposited in the mail. Service by e-mail is complete when the e-mail message is transmitted, subject to Rule 1.10(e). The Administrative Law Judge may direct or any party may consent to service by other means not listed in this rule (e.g., facsimile transmission).

(d) A person may serve a Notice of Availability in lieu of hard copy service under this rule or e-mail service under Rule 1.10:

(1) if the entire document, including attachments, exceeds 50 pages; or

(2) if a document or part of the document is not reproducible in electronic format, or would cause the entire e-mail message, including all attachments, to exceed 3.5 megabytes in size, or would be likely to cause e-mail service to fail for any other reason; or

(3) if the document is made available at a particular Uniform Resource Locator (URL) on the ~~World Wide Web~~ internet in a readable, downloadable, printable, and searchable format, unless use of such formats is infeasible; or

(4) with the prior permission of the assigned Commissioner or Administrative Law Judge; except that the document must be served on any person who has previously informed the serving person of its desire to receive the document.

The Notice must comply with Rule 1.6(a), and shall state the document's exact title and summarize its contents, and provide the name, telephone number, and e-mail address, if any, of the person to whom requests for the document should be directed. The document shall be served within one business day after receipt of any such request.

If the document is made available at a particular URL, the Notice of Availability must contain a complete and accurate transcription of the URL or a hyperlink to the URL at which the document is available, and must state the date on which the document was made available at that URL. Such document must be maintained at that URL until the date of the final decision in the proceeding. If changes to the web site change the URL for the document, the serving person must serve and file a notice of the new URL.

(e) Each copy of the document (or Notice of Availability) filed with the Commission must include the certificate of service. It is not required to include the certificate of service with service of the document. If a Notice of Availability is served, a copy of the Notice must also be attached to each copy of the document filed with the Commission. The certificate of service must state: (1) the caption for the proceeding, (2) the docket number (if one has been assigned), (3) the exact title of the document served, (4) the place, date, and manner of service, and (5) the name of the person making the service. The certificate filed with the original of the document must be signed by the person making the service (see Rule 1.8(e)). The certificate filed with the original of the document must also include a list of the names, addresses, and, where relevant, the e-mail addresses of the persons and entities served and must indicate whether they received the complete document or a Notice of Availability. (See Rule 18.1, Form No. 4.)

(f) The Process Office shall maintain the official service list for each pending proceeding and post the service list on the Commission's web site. The official service list shall include the following categories:

- (1) Parties, as determined pursuant to Rule 1.4, and
- (2) Information Only, for electronic service of all documents only, unless otherwise directed by the Administrative Law Judge.

Persons will be added to the official service list as Information Only upon request to the Process Office. It is the responsibility of each person or entity on the official service list to ensure that its designated person for service, mailing address and/or e-mail address shown on the official service list are current and accurate. A person may change its mailing

address or e-mail address for service or its designation of a person for service by sending a written notice to the Process Office.

(g) The Administrative Law Judge may establish a special service list that includes some, but not all, persons on the official service list for service of documents related to a portion of a proceeding, provided that all persons on the official service list are afforded the opportunity to be included on the special service list. A special service list may be established, for example, for one phase of a multi-phase proceeding or for documents related to issues that are of interest only to certain persons.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. References: Sections 311.5, 1701 and 1704, Public Utilities Code.

1.10. (Rule 1.10) Electronic Mail Service.

(a) By providing an electronic mail (e-mail) address for the official service list in a proceeding, a person consents to e-mail service of documents in the proceeding, and may use e-mail to serve documents on persons who have provided an e-mail address for the official service list in the proceeding.

(b) Documents served by e-mail need not be otherwise served on persons who appear in the "Information Only" category of the official service list and have not provided an e-mail address for the official service list. Nothing in this rule excuses persons from serving copies of documents on persons who appear in the "Parties" and "State Service" categories of the official service list and have not provided an e-mail address for the official service list.

(c) E-mail service shall be made by sending the document, a link to the filed version of the document, or the Notice of Availability (see Rule 1.9(c)), as an attachment to an e-mail message to all e-mail addresses shown on the official service list on the date of service. ~~The certificate of service shall be attached to the e-mail message as a separate document.~~ Documents must be in readable, downloadable, printable, and searchable formats, unless use of such formats is infeasible. The subject line of the e-mail message must include in the following order (1) the docket number of the proceeding, (2) a brief name of the proceeding, and (3) a brief identification of the document to be served, including the name of the serving person. The text of the e-mail message must identify the electronic format of the document (e.g., PDF, Excel), whether the e-mail message is one of multiple e-mail messages transmitting the document or documents to be served and, if so, how many e-mails, and the name, telephone number, e-mail address, and facsimile transmission number of the person to whom problems with receipt of the

document to be served should be directed. The total size of a single e-mail message and all documents attached to it may not exceed 3.5 megabytes.

~~(d) By utilizing e-mail service, the serving person agrees, in the event of failure of e-mail service, to re-serve the document, no later than the business day after the business day on which notice of the failure of e-mail service is received by the serving party. The serving person is not required to re-serve, after failure of e-mail service, any person listed on the official service list as Information Only.~~

~~(d)~~(e) In addition to any other requirements of this rule, the serving person must provide a paper copy of all documents served by e-mail service to the assigned Administrative Law Judge (or, if none is yet assigned, to the Chief Administrative Law Judge), unless the Administrative Law Judge orders otherwise.

~~(e)~~(f) The Commission may serve any document in a proceeding by e-mail service, and/or by making it available at a particular URL, unless doing so would be contrary to state or federal law.

~~(f)~~(g) Nothing in this rule alters any of the rules governing filing of documents with the Commission.

~~(g)~~(h) The assigned Commissioner or Administrative Law Judge may issue any order consistent with these rules to govern e-mail service in a particular proceeding.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311.5, Public Utilities Code; and Section 11104.5, Government Code.

1.13. (Rule 1.13) Tendering of Document for Filing.

Documents may be tendered for filing in hard copy or electronically, as follows, except that a utility whose gross intrastate revenues, as reported in the utility's most recent annual report to the Commission, exceed \$10 million shall electronically file all documents unless otherwise prohibited or excused by these rules:

(a) Hard copy:

(1) Documents must be tendered for filing at the Commission's Docket Office at the State Building, 505 Van Ness Avenue, San Francisco, California 94102, ~~or at the Commission's Offices in the State Building,~~

~~320 West 4th Street, Suite 500, Los Angeles. All documents tendered by mail must be addressed to the Commission's Docket Office in San Francisco. Only hand-delivered documents will be accepted by the Los Angeles office. First-class postage charges to San Francisco must be paid at the time documents are tendered to the Los Angeles office. Payment of postage charges may be made by check or money order.~~

(2) Except for Proponent's Environmental Assessments (see Rule 2.4(b)) and complaints (see Article 4), an original and six exact copies of the document (including any attachments but not including the transmittal letter, if any) shall be tendered. After assignment of the proceeding to an Administrative Law Judge, an original and three copies of the document shall be tendered.

In lieu of the original, one additional copy of the document may be tendered. If a copy is tendered instead of the original, the person tendering the document must retain the original, and produce it at the Administrative Law Judge's request, until the Commission's final decision in the proceeding is no longer subject to judicial review.

(b) Electronic:

(1) Documents must be transmitted to the Docket Office using the Electronic Filing System on the Commission's website at <http://www.cpuc.ca.gov/PUC/efiling>.

(i) Documents must be transmitted in PDF Archive format (PDF/A). This PDF document must be searchable unless creation of a searchable document is infeasible.

(ii) A single transmission may not exceed 1.5 gigabytes in size. Documents tendered in a transmission that exceeds this limit shall not be filed electronically.

(iii) The certificate of service must be transmitted with the document as a separate attachment.

(2) Electronically tendered documents will not be filed under seal. Documents which a person seeks leave to file under seal (Rule 11.4) must be tendered by hard copy. However, redacted versions of such documents may be electronically tendered for filing.

(3) A Notice of Acknowledgment of Receipt of the document is immediately available to the person tendering the document confirming the date and time of receipt of the document by the Docket Office for

review. In the absence of a Notice of Acknowledgment of Receipt, it is the responsibility of the person tendering the document to obtain confirmation that the Docket Office received it.

(4) The Docket Office shall deem the electronic filing system to be subject to a technical failure on a given day if it is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon that day, in which case filings due that day shall be deemed filed that day if they are filed the next day the system is able to accept filings.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

1.14. (Rule 1.14) Review and Filing of Tendered Documents

(a) Tendered documents are not filed until they have been reviewed and accepted for filing by the Docket Office in San Francisco.

(b) If a document is accepted for filing, it will be recorded as of the date it was first tendered for filing at the Commission's San Francisco ~~or Los Angeles~~ office.

(1) Hard copy: The Docket Office will provide an acknowledgment of the filing on request, provided the person tendering the document furnishes at the time the document is tendered, an extra copy of the document and a self-addressed envelope with postage fully prepaid. The extra copy of the document will be stamped with the filing stamp and docket number and returned by mail.

(2) Electronic: Upon the filing of any document tendered electronically, the document will be stamped with the electronic filing stamp and, in the case of an initiating document, a docket number and the Docket Office shall electronically transmit to the person tendering the document a Confirmation of Acceptance and a link to the filed stamped copy of the document on the Commission's website. Electronically filed documents so endorsed carry the same force and effect as a manually affixed endorsement stamp.

(c) If a tendered document does not comply with applicable requirements, the Docket Office may reject the document for filing. Documents submitted in response to a rejected document will not be filed.

(1) Hard copy: The Docket Office will return the rejected document with a statement of the reasons for the rejection.

(2) Electronic: The Docket Office will electronically transmit to the person tendering the document a Notice of Rejection setting forth the ground for rejecting the document.

(d) If a tendered document is in substantial, but not complete, compliance with applicable requirements, the Docket Office may notify the person tendering the document of the defect. If the document would initiate a new proceeding, the document will be filed as of the date that the defect is cured. For all other documents, if the defect is cured within seven days of the date of this notification, the document will be filed as of the date it was tendered for filing, provided that the document was properly served as required by these Rules on or before the date the document was tendered for filing.

(e) Acceptance of a document for filing is not a final determination that the document complies with all requirements of the Commission and is not a waiver of such requirements. The Commission, the Executive Director, or the Administrative Law Judge may require amendments to a document, and the Commission or the Administrative Law Judge may entertain appropriate motions concerning the document's deficiencies.

(f) If a document initiates a new proceeding, the proceeding will be assigned a docket number when the document is accepted for filing. The Chief Administrative Law Judge shall maintain a docket of all proceedings.

(g) Specific types of documents may be subject to additional requirements stated in other articles of these rules. Additional or different requirements for certain types of filings are stated in the Public Utilities Code or in the Commission's decisions, General Orders, or resolutions.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

1.18. (Rule 1.18) Public Participation in Proceedings

Any member of the public may submit written comment in any Commission ~~ratesetting, catastrophic wildfire, or quasi-legislative~~ proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website.

(a) All written public comment submitted in a ~~ratesetting, catastrophic wildfire, or quasi-legislative~~ proceeding that is received prior to the submission of the record in the proceeding, as defined by Rule 13.145.(a), will be entered into the ~~administrative~~ record of that proceeding ~~and reviewed and considered by the Presiding Officer.~~

(b) Relevant written comment submitted in a ~~ratesetting, catastrophic wildfire, or quasi-legislative~~ proceeding will be summarized in ~~the body of~~ the final decision issued in that proceeding.

(c) Parties may respond to, and cite to, any public comment submitted in a ~~ratesetting, catastrophic wildfire, or quasi-legislative~~ proceeding in their submissions to the Commission in that proceeding.

(d) The assigned Commissioner and/or Administrative Law Judge may invite parties to a proceeding to comment on any matter identified in public comment submitted in that ~~ratesetting, catastrophic wildfire, or quasi-legislative~~ proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701 and 1701.1(g), Public Utilities Code.

2.1. (Rule 2.1) Contents.

All applications shall state clearly and concisely the authorization or relief sought; shall cite by appropriate reference the statutory provision or other authority under which Commission authorization or relief is sought; shall be verified by at least one applicant (see Rule 1.11); and, in addition to specific requirements for particular types of applications, shall state the following:

(a) The exact legal name of each applicant and the location of principal place of business, and if an applicant is a corporation, trust, association, or other organized group, the State under the laws of which such applicant was created or organized.

(b) The name, title, address, telephone number, facsimile transmission number, and, if the applicant consents to e-mail service, the e-mail address, of the person to whom correspondence or communications in regard to the application are to be addressed. Notices, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon applicant.

(c) The proposed category for the proceeding, the need for hearing, the issues to be considered including relevant safety considerations, and a

proposed schedule. (See Article 7.) The proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding) or deadline for issuance of a proposed decision within 12 months or less (catastrophic wildfire proceeding).

(d) Such additional information as may be required by the Commission in a particular proceeding.

Note: Authority cited: Sections 1701 and 1701.8, Public Utilities Code.
Reference: Sections 1701 and 1701.8, Public Utilities Code.

2.4. (Rule 2.4) CEQA Compliance.

(a) Applications for authority to undertake any projects that are subject to the California Environmental Quality Act of 1970, Public Resources Code Sections 21000 et seq. (CEQA) and the guidelines for implementation of CEQA, California Code of Regulations, Title 14, Sections 15000 et seq., shall be consistent with these codes and this rule.

(b) Any application for authority to undertake a project that is not statutorily or categorically exempt from CEQA requirements shall include a Proponent's Environmental Assessment (PEA). The PEA shall include all information and studies required under the Commission's Information and Criteria List adopted pursuant to Chapter 1200 of the Statutes of 1977 (Government Code Sections 65940 through 65942), which is published on the Commission's Internet website. If the proposed project is an energy infrastructure project, the applicant shall prepare the PEA in accordance with the Guidelines for Energy Project Applications Requiring CEQA Compliance: Pre-filing and Proponent's Environmental Assessments (Version 1.0, November 2019) which is published on the Commission's Internet website and is hereby incorporated by reference. ~~The original and three copies of the PEA shall be tendered with the application, the copies of which may be tendered for filing in a CD-ROM/DVD format.~~

(c) Any application for authority to undertake a project that is statutorily or categorically exempt from CEQA requirements shall so state, with citation to the relevant authority.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

2.5. (Rule 2.5) Fees for Recovery of Costs in Preparing EIR.

(a) For any project where the Commission is the lead agency responsible for preparing the Environmental Impact Report (EIR) or Negative Declaration, the proponent shall be charged a fee to recover the Commission's actual cost of preparing the EIR or Negative Declaration and of monitoring construction to ensure compliance with the EIR or Negative Declaration in the event that the application is approved. A deposit shall be charged the proponent as set forth below:

A deposit of thirty dollars (\$30) for each one thousand dollars (\$1,000) of the estimated capital cost of the project up to one hundred thousand dollars (\$100,000), ten dollars (\$10) for each one thousand dollars (\$1,000) over one hundred thousand dollars (\$100,000) and up to one million dollars (\$1,000,000), five dollars (\$5) for each one thousand dollars (\$1,000) over one million dollars (\$1,000,000) and up to five million dollars (\$5,000,000), two dollars (\$2) for each one thousand dollars (\$1,000) over five million dollars (\$5,000,000) and up to ten million dollars (\$10,000,000), one dollar (\$1) for each one thousand dollars (\$1,000) over ten million dollars (\$10,000,000) and up to one hundred million dollars (\$100,000,000), and fifty cents (\$0.50) for each one thousand dollars (\$1,000) over one hundred million dollars (\$100,000,000). A minimum deposit of five hundred dollars (\$500) shall be charged for projects with an estimated capital cost of sixteen thousand dollars (\$16,000) or less.

If a project lacks a capital cost basis, the Commission, assigned Commissioner, or Administrative Law Judge shall determine, as early as possible, the deposit to be charged.

(b) The deposit shall be collected whenever an EIR or Negative Declaration is requested or required. The costs of preparing the EIR or Negative Declaration shall be paid from such deposits.

(c) Proponent shall pay the applicable deposit in progressive payments due as follows: One-third of the deposit at the time the application or pleading is filed, an additional one-third no later than 120 days after the time the application or pleading is filed, and the remaining one-third no later than 180 days after the time the application or pleading is filed. Failure to remit full payment of the deposit no later than 180 days after the time the application or pleading is filed may subject the proponent to a fine not exceeding 10 percent of the outstanding amount due. If the costs exceed such deposit the proponent shall pay for such excess costs within 20 days of the date stated on the Commission's bill for any excess costs. If the costs

are less than the deposit paid by the proponent, the excess shall be refunded to the proponent.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section ~~21165~~701, Public ~~Resources~~Utilities Code.

2.6. (Rule 2.6) Protests, Responses, and Replies.

(a) Unless otherwise provided by rule, decision, or General Order, a protest or response must be filed within 30 days of the date the notice of the filing of the application first appears in the Daily Calendar.

(b) A protest objecting to the granting, in whole or in part, of the authority sought in an application must state the facts or law constituting the grounds for the protest, the effect of the application on the protestant, and the reasons the protestant believes the application, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or partial denial of the application.

(c) Any person may file a response that does not object to the authority sought in an application, but nevertheless presents information that the person tendering the response believes would be useful to the Commission in acting on the application.

(d) Any person protesting or responding to an application shall state in the protest or response any comments or objections regarding the applicant's statement on the proposed category, need for hearing, issues to be considered, and proposed schedule. Any alternative proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding) or deadline for issuance of a proposed decision within 12 months or less (catastrophic wildfire proceeding).

(e) An applicant may file replies to protests and responses within 10 days of the last day for filing protests and responses, unless the Administrative Law Judge sets a different date. Replies must be served on all protestants, all parties tendering responses, and the assigned Administrative Law Judge.

Note: Authority cited: Sections 1701 and 1701.8, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 1701 and 1701.8, Public Utilities Code.

2.7. (Rule 2.7) Copy of Document on Request.

Applicants, protestants, and parties tendering responses must promptly furnish an electronic copy of their applications, protests, or responses to each person requesting one.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

2.8. (Rule 2.8) Voluntary Dismissal of Application.

Upon an unopposed motion for dismissal of an application by the applicant or stipulation by all parties to the dismissal of an application, the Executive Director ~~may~~ has authority to issue an order dismissing the application.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 308 and 1701, Public Utilities Code.

2.9. (Rule 2.9) Requests for Expedited Schedule

(a) *Except in a catastrophic wildfire proceeding, A*an application may be submitted to the Commission with a request for an expedited schedule.

(b) Notwithstanding Rule 1.7(a), the title page of an application requesting an expedited schedule shall contain the caption "Request for Expedited Schedule" below the title of the application. Such application shall include an attachment, not exceeding 3 pages, titled "Request for Expedited Schedule."

(c) The assigned Commissioner ~~may~~ has the ~~sole~~ discretion to grant a request for an expedited schedule if the attachment demonstrates, ~~referencing~~ specific facts, that ~~constitute either: special exceptional circumstances necessitate expedited action by the Commission, and that the requested relief concerns~~ a threat to public safety or a major direct financial impact to customers that justifies an expedited schedule, or the need to resolve a financial matter expeditiously to avoid ratepayer harm.

(d) ~~Requests for an expedited schedule shall be granted at the sole discretion of the assigned Commissioner, and only in exceptional circumstances.~~

(ed) In an expedited proceeding, the assigned Commissioner and/or Administrative Law Judge shall notice a prehearing conference no later than 20 days from the date of preliminary categorization of the proceeding under

Rule 7.1(a), and hold a prehearing conference no later than 30 days from the date of preliminary categorization. The notice shall inform parties that the proceeding has been designated as expedited and the assigned Commissioner may take comments from parties regarding the designation of the proceeding as expedited at the prehearing conference. In an expedited proceeding, a scoping memo shall be issued no later than 45 days from the date of preliminary categorization.

(fe) The assigned Commissioner may, at their discretion, provide a different schedule in an expedited proceeding, pursuant to Public Utilities Code Section 1701.1(b)(1), if good cause is demonstrated by a party or articulated by the Commissioner.

(gf) In an expedited proceeding, the scoping memo shall include a date for issuance of a proposed decision which is no later than 12 months after the application was filed.

(hg) The assigned Commissioner may extend the date for issuance of a proposed decision in an expedited proceeding, pursuant to Public Utilities Code Section 1701.1(b)(1).

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Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701 and 1701.1, Public Utilities Code.

3.6. (Rule 3.6) Transfers and Acquisitions.

Applications to sell, lease or encumber utility property or rights, to merge or consolidate facilities, to acquire stock of another utility, or to acquire or control a utility under Sections 851 through 854 of the Public Utilities Code shall be signed by all parties to the proposed transaction, except the lender, vendor under a conditional sales contract, or trustee under a deed of trust, unless such person is a public utility. In addition, they shall contain the following data:

(a) The character of business performed and the territory served by each applicant.

(b) A description of the property involved in the transaction, including any franchises, permits, or operative rights; and, if the transaction is a sale, lease, assignment, merger or consolidation, a statement of the book cost and the original cost, if known, of the property involved.

(c) Detailed reasons upon the part of each applicant for entering into the proposed transaction, and all facts warranting the same.

(d) The agreed purchase price and the terms for payment. If a merger or consolidation, the full terms and conditions thereof.

(e) In consolidation and merger proceedings, a financial statement as outlined in Rule 2.3. In other transfer proceedings, a balance sheet as of the latest available date, together with an income statement covering period from close of last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.

(f) Copy of proposed deed, bill of sale, lease, security agreement, mortgage, or other encumbrance document, and contract or agreement therefor, if any, and copy of each plan or agreement for purchase, merger or consolidation.

(g) If a merger or consolidation, a pro forma balance sheet giving effect thereto.

(h) Applications that involve a certificate or operative right as vessel common carrier or passenger stage corporation shall also state, as to the seller, whether it is a party to any through routes or joint rates or fares with any other carrier, and whether operation under the rights involved is presently being conducted. If there has been any suspension or discontinuance of service during the preceding three years, the application shall state those facts and circumstances.

~~(i) Applications that involve the sale of real property within a California Native American Tribe's ancestral territories, as recognized by the Native American Heritage Commission, shall comply with the notice and communication requirements set forth in the Commission's Tribal Land Policy and any Implementing Guidelines.~~

Note: Authority cited: Article 12, Section 2, California Constitution; and Section 1701, Public Utilities Code. Reference: Sections 1007, 1010 and 1032, Public Utilities Code.

4.1. (Rule 4.1) Who May Complain.

(a) A complaint may be filed by:

(1) any corporation or person, chamber of commerce, board of trade, labor organization, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, setting forth any act or thing done or omitted to be done by any public utility including any rule or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission; or

(2) any local government, alleging that a holder of a state franchise to construct and operate video service pursuant to Public Utilities Code Section 5800 et seq. is in violation of Section 5890; or

(3) a public utility that offers competitive services, for a finding by the Commission that condemnation of a property for the purpose of competing with another entity in the offering of those competitive services would serve the public interest, pursuant to Public Utilities Code Section 625; or

(4) former or current tenants of a mobilehome park, for a finding that the rates charged by the mobilehome park for water service are not just and reasonable or that the water service provided by the mobilehome park is inadequate, pursuant to Public Utilities Code Section 2705.6.

(b) No complaint shall be entertained by the Commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water, or telephone corporation, unless it be signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city or city and county within which the alleged violation occurred, or by not less than 25 actual or prospective consumers or purchasers of such gas, electric, water, or telephone service.

Note: Authority cited: Section 1702, Public Utilities Code. Reference: Sections 625, 1702, 2705.6 and 5890(g), Public Utilities Code.

4.3. (Rule 4.3) Service of Complaints and Instructions to Answer.

When a complaint is accepted for filing (see Rule 1.13), the Docket Office shall serve on each defendant (a) a copy of the complaint and

(b) instructions to answer, with a copy to the complainant, indicating (1) the date when the defendant's answer shall be filed and served, and (2) the Administrative Law Judge assigned to the proceeding. The instructions to answer shall also indicate the category of the proceeding ~~and the preliminary determination of need for hearing~~, as determined by the Chief Administrative Law Judge in consultation with the President of the Commission.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1, Public Utilities Code.

4.5. (Rule 4.5) Voluntary Dismissal of Complaint.

Upon an unopposed motion for a dismissal of a complaint by the complainant or stipulation by all parties stipulating to the dismissal of a complaint, the Executive Director ~~may~~has authority to issue an order dismissing the complaint granting such motion.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 308 and 1701, Public Utilities Code.

5.2. (Rule 5.2) Responses to Investigations.

A respondent need not file a response to the investigatory order unless so directed therein.

Any person filing a response to an order instituting investigation shall state in the response any objections to the preliminary scoping memo regarding the ~~need for hearing~~, issues to be considered, or schedule. Any recommended changes to the proposed schedule shall be consistent with the category of the proceeding, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding). (See Article 7.)

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1, Public Utilities Code.

6.2. (Rule 6.2) Comments.

Any person filing comments on an order instituting rulemaking shall state any objections to the preliminary scoping memo regarding the category, ~~need for hearing~~, issues to be considered, or schedule. Any recommended changes to the proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 18 months or less (ratesetting or quasi-legislative proceeding).

All comments which contain factual assertions shall be verified. Unverified factual assertions will be given only the weight of argument.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1, Public Utilities Code.

7.1. (Rule 7.1) Categorization, ~~Need for Hearing.~~

(a) Applications. By resolution at each Commission business meeting, the Commission shall preliminarily determine, for each proceeding initiated by application filed on or after the Commission's prior business meeting, the category of the proceeding ~~and the need for hearing.~~ The preliminary determination may be held for one Commission business meeting if the time of filing did not permit an informed determination. The preliminary determination is not appealable, but shall be confirmed or changed by assigned Commissioner's ruling pursuant to Rule 7.3, and such ruling as to the category is subject to appeal under Rule 7.6.

(b) Complaints. For each proceeding initiated by complaint, the Chief Administrative Law Judge, in consultation with the President of the Commission, shall determine the category of the proceeding ~~and shall preliminarily determine the need for hearing. These determinations will be stated in the instructions to answer.~~ The determination as to the category will be stated in the instructions to answer and is appealable under Rule 7.6.

(c) Investigations. An order instituting investigation shall determine the category of the proceeding, ~~preliminarily determine the need for hearing,~~ and attach a preliminary scoping memo. The order, only as to the category, is appealable under the procedures in Rule 7.6.

(d) Rulemakings. An order instituting rulemaking shall preliminarily determine the category ~~and need for hearing,~~ and shall attach a preliminary scoping memo. The preliminary determination is not appealable, but shall be confirmed or changed by assigned Commissioner's ruling pursuant to Rule 7.3, and such ruling as to the category is subject to appeal under Rule 7.6.

(e) Commission Discretion in Categorization.

(1) When a proceeding may fit more than one category as defined in Rules 1.3(a), ~~(b), (f), (d)~~ and ~~(eg)~~, the Commission may determine which category appears most suitable to the proceeding, or may divide the subject matter of the proceeding into different phases or one or more new proceedings.

(2) When a proceeding does not clearly fit into any of the categories as defined in Rules 1.3(a), ~~(b), (f), (d)~~ and (eg), the proceeding will be conducted under the rules applicable to the ratesetting category unless and until the Commission determines that the rules applicable to one of the other categories, or some hybrid of the rules, are best suited to the proceeding.

(3) In exercising its discretion under this rule, the Commission shall so categorize a proceeding and shall make such other procedural orders as best to enable the Commission to achieve a full, timely, and effective resolution of the substantive issues presented in the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1, Public Utilities Code.

7.2. (Rule 7.2) Prehearing Conference.

(a) ~~The assigned Commissioner shall set a~~ A prehearing conference in an adjudicatory or ratesetting proceeding shall be held between for 45 to and 60 days after the initiation of the proceeding or as soon as practicable after the Commission makes the assignment. The ruling setting the prehearing conference shall provide details for remote participation and may also set a date for filing and serving prehearing conference statements. Such statements may address the schedule, the issues to be considered, and any other matter specified in the ruling setting the prehearing conference.

(b) The assigned Commissioner has the discretion not to set a prehearing conference in a quasi-legislative proceeding.

(c) The assigned Commissioner shall notice a prehearing conference within 15 days of the initiation of a catastrophic wildfire proceeding and hold the prehearing conference within 25 days of the initiation of a catastrophic wildfire proceeding.

Note: Authority cited: Sections 1701 and 1701.8, Public Utilities Code. Reference: Sections 1701, ~~and~~ 1701.1 and 1701.8, Public Utilities Code.

7.3. (Rule 7.3) Scoping Memos.

The assigned Commissioner shall issue the scoping memo for the proceeding, which shall determine the schedule (with projected submission date), ~~and issues to be addressed, and need for hearing.~~ In an adjudicatory or ratesetting proceeding in which there is evidentiary hearing, the scoping memo shall also designate the presiding officer. In a proceeding initiated by

application or order instituting rulemaking, the scoping memo shall also determine the category ~~and need for hearing~~. In a catastrophic wildfire proceeding, the assigned Commissioner shall issue the scoping memo within 30 days of the filing of the application.

Note: Authority cited: Sections 1701 *and* 1701.8, Public Utilities Code.
Reference: Sections 1701, ~~and~~ 1701.1 *and* 1701.8, Public Utilities Code.

7.5. (Rule 7.5) Changes to Preliminary Determinations. Quasi-Legislative Proceedings.

~~If the assigned Commissioner, pursuant to Rule 7.3(a), changes the preliminary determination on need for hearing, the assigned Commissioner's ruling shall be placed on the Commission's Consent Agenda for approval of that change.~~

(a) Quasi-legislative proceedings need not include hearings but shall include the following components:

(1) An assigned Commissioner's ruling or an industry division staff report setting forth recommendations on how to resolve the issues identified in the scoping memo;

(2) At least one workshop providing an opportunity for the parties to the proceeding to have an interactive discussion on issues identified in the scoping memo either in person or via remote participation; and

(3) At least one public engagement workshop to ensure that the issues are presented to members of the public who are not parties to the proceeding and members of the public have the opportunity to provide input into those issues.

(b) The assigned Commissioner may choose to modify these requirements in the scoping memo *if good cause is demonstrated by a party or articulated by the Commissioner.*

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(c), Public Utilities Code.

7.6. (Rule 7.6) Appeals of Categorization.

(a) Any party may file and serve an appeal regarding the categorization of a proceeding to the Commission, no later than 10 days after the date of:

(1) an assigned Commissioner's ruling on category pursuant to Rule 7.3(a);

(2) the instructions to answer pursuant to Rule 7.1(b); (3) an order instituting investigation pursuant to Rule 7.1(c); or (4) any subsequent ruling that expands the scope of the proceeding. Such appeal shall state why the designated category is wrong as a matter of law or policy. The appeal shall be served on the Commission's General Counsel, the Chief Administrative Law Judge, the President of the Commission, and all persons who were served with the ruling, instructions to answer, or order.

(b) Any party, no later than 15 days after the date of a categorization from which timely appeal has been taken pursuant to subsection (a) of this rule, may file and serve a response to the appeal. The response shall be served on the appellant and on all persons who were served with the ruling, instructions to answer, or order. The Commission is not obligated to withhold a decision on an appeal to allow time for responses. Replies to responses are not permitted.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701 and 1701.1, Public Utilities Code.

8.1. (Rule 8.1) Definitions.

For purposes of this Article, the following definitions apply:

(a) "Decisionmaker" means any Commissioner, the Chief Administrative Law Judge, any Assistant Chief Administrative Law Judge, the policy or legal advisory staff assigned to a Commissioner's office, the assigned Administrative Law Judge, or the Law and Motion Administrative Law Judge.

(b) "Ex parte communication" means a written communication (including a communication by letter or electronic medium) or oral communication (including a communication by telephone or in person) that:

(1) concerns any issue in a formal proceeding, other than procedural matters,

(2) takes place between an interested person and a decisionmaker, whether from the interested person to the decisionmaker or from the decisionmaker to the interested person or a combination thereof, and

(3) does not occur in a public hearing, workshop, or other public forum, that has been noticed to the official service list or on the record of the proceeding.

"Ex parte communications" include communications that are one-way from a decisionmaker to an interested person, except as provided in Rule 8.3(b).

(c) "Interested person" means any of the following:

- (1) any party to the proceeding or the agents or employees of any party, including persons receiving consideration to represent any of them;
- (2) any person with a financial interest in a matter at issue before the Commission, or such person's agents or employees, including persons receiving consideration to represent such a person;
- (3) a representative acting on behalf of any formally organized civic, environmental, neighborhood, business, labor, trade, or similar organization who intends to influence the decision of a Commission member on a matter before the Commission, even if that association is not a party to the proceeding; or
- (4) a person involved in issuing credit ratings or advising entities or persons who invest in shares or operations of any party to a proceeding.

(d) "Party" includes ~~staff from the Office of Ratepayer Advocates assigned to the proceeding and any other~~ Commission staff assigned to a proceeding in an advocacy capacity.

(e) "Procedural matter" means:

- (1) an inquiry regarding the proceeding schedule, location or format of a hearing or other event in the proceeding, general Commission practice, or the requirements of the Rules of Practice and Procedure, provided that the person making the inquiry reasonably believes that the subject of the inquiry is not in controversy;
- (2) a discussion of issues related to submission, filing or service of a document;
- (3) a request for a specific procedural action, so long as the parties are included in the communication; or
- (4) an inquiry pertaining to the forms and requirements for filing an intervenor compensation notice of intent or request for compensation.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701 and 1701.1, Public Utilities Code.

8.2. (Rule 8.2) Ex Parte Requirements.

(a) In any quasi-legislative proceeding, ex parte communications are allowed without restriction or reporting requirement.

(b) In any adjudicatory proceeding, ex parte communications and communications concerning procedural matters between interested persons and decisionmakers other than the assigned Administrative Law Judge are prohibited.

(c) In any ratesetting or catastrophic wildfire proceeding, ex parte communications are permitted if consistent with the following requirements:

(1) All-party meetings:

(A) Oral ex parte communications are permitted at any time with a Commissioner provided that the Commissioner involved (i) invites all parties to attend the meeting or sets up a conference call in which all parties may participate, and (ii) gives notice of this meeting or call as soon as possible, but no less than three working days before the meeting or call.

(B) Oral ex parte communications at all-party meetings are not subject to the reporting requirements set forth in Rule 8.4.

(2) Individual oral ex parte communications:

(A) If a decisionmaker, other than the policy or legal advisory staff assigned to a Commissioner's office, grants an ex parte communication meeting or call to any interested person individually or to a group of interested persons outside of an all-party meeting, all other parties shall be granted an individual meeting of a substantially equal period of time with that decisionmaker.

(B) If a decisionmaker grants an ex parte communication meeting or call to any interested person individually or to a group of interested persons outside of an all-party meeting, the interested person requesting the initial individual meeting shall notify the parties that its request has been granted, and shall file this notification, at least three working days before the meeting or call. A single notification on behalf of a group of interested persons will suffice.

(C) Individual oral ex parte communications are not permitted during the three working days before the Commission's scheduled vote on

the decision in the proceeding and extending until after the Commission's voting meeting concludes.

(D) Individual oral ex parte communications are subject to the reporting requirements set forth in Rule 8.4.

(3) Written ex parte communications:

(A) Written ex parte communications are permitted ~~at any time~~ provided that the interested person making the communication serves copies of the communication on all parties on the same day the communication is sent to a decisionmaker.

(B) Written ex parte communications permissible under Rule 8.2(c)(3)(A) are not subject to the reporting requirements set forth in Rule 8.4.

(4) No oral or written ex parte communications may occur during any "quiet period" established pursuant to Public Utilities Code Sections 1701.3(h)(6)(A) or 1701.3(h)(6)(D). ~~Ratesetting Deliberative Meetings and Ex Parte Prohibitions:~~

~~(A) The Commission may prohibit ex parte communications for a period beginning not more than 14 days before the day of the Commission Business Meeting at which the decision in the proceeding is scheduled for Commission action, during which period the Commission may hold a Ratesetting Deliberative Meeting. If the decision is held, the Commission may permit such communications for the first half of the hold period, and may prohibit such communications for the second half of the period, provided that the period of prohibition shall begin not more than 14 days before the day of the Business Meeting to which the decision is held.~~

~~(B) In proceedings in which a Ratesetting Deliberative Meeting has been scheduled, ex parte communications are prohibited from the day of the Ratesetting Deliberative Meeting at which the decision in the proceeding is scheduled to be discussed through the conclusion of the Business Meeting at which the decision is scheduled for Commission action.~~

(d) Notwithstanding subsections (a) and (c) of this rule, the assigned Commissioner may issue a ruling to restrict or prohibit ex parte communications in a quasi-legislative, or ratesetting, or catastrophic wildfire proceeding or to require reporting of ex parte communications in a quasi-legislative proceeding.

(e) Ex parte communications concerning categorization of a given proceeding are permitted, but must be reported pursuant to Rule 8.3.

(f) Ex parte communications regarding the assignment of a proceeding to a particular Commissioner or Administrative Law Judge, or reassignment of a proceeding to another Commissioner or Administrative Law Judge, are prohibited.

(g) Ex parte communications that are one-way from a decisionmaker to an interested person are banned.

(h) If a prohibited communication occurs, the interested person shall report it pursuant to Rule 8.4.

(i) The requirements of this rule, and any reporting requirements under Rule 8.4, shall apply until (1) the date when the Commission serves the decision finally resolving any application for rehearing, or (2) where the period to apply for rehearing has expired and no application for rehearing has been filed.

(j) Upon the filing of a petition for modification, the requirements of this rule, and any reporting requirements under Rule 8.4, that applied to the proceeding in which the decision that would be modified was issued shall apply until and unless a scoping memo has issued determining that a different category shall apply.

(k) Where a proceeding is remanded to the Commission by a court or where the Commission re-opens a proceeding, the requirements of this rule and any reporting requirements under Rule 8.4 that previously applied to the proceeding shall apply until and unless a Commission order or a scoping memo has issued determining that a different category shall apply.

(l) When the Commission determines that there has been a violation of this rule or of Rule 8.3, the Commission may impose penalties and sanctions, or make any other order, including but not limited to:

(i) penalty of from \$500 up to \$50,000 for each offense, except that, if the person or entity that committed the violation may obtain financial benefits that exceed this maximum penalty, the Commission may impose a penalty up to the amount of those benefits. If the violation consists of engaging in a prohibited ex parte communication, each day

that the violation is not disclosed to the Commission and to parties to the proceeding is a separate violation.

(ii) adverse consequences in the subject proceeding or in other Commission proceedings.

In determining the appropriate penalties or sanctions, the Commission shall consider (i) the harm caused by virtue of the violation, (ii) the person's or entity's conduct in preventing, detecting, correcting, disclosing, and rectifying the violation, (iii) the amount of penalty that will achieve the objective of deterrence based on the person's or entity's financial resources, (iv) penalties or sanctions that the Commission has imposed under reasonably comparable factual circumstances, and (v) the totality of circumstances from the perspective of the public interest.

(m) The Commission shall render its decision based on the evidence of record. Ex parte communications, and any notice filed pursuant to Rule 8.3, are not a part of the evidentiary record of the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701, 1701.1, 1701.2, 1701.3 and 1701.4, Public Utilities Code.

8.3. (Rule 8.3) Communications at Conferences.

This rule governs communications concerning any issue in an adjudicatory, ~~or ratesetting,~~ or catastrophic wildfire proceeding between interested persons and decisionmakers at a conference.

(a) Individual oral ex parte communications are subject to the otherwise-applicable requirements of Rule 8.2. Pursuant to Rule 8.2(b), communications regarding adjudicatory proceedings are prohibited and the limited exceptions set forth in (b) and (c) apply only to ratesetting and catastrophic wildfire proceedings.

(b) A decisionmaker's presentation or dialogue during a question and answer session where the audience includes an interested person is not a one-way ex parte communication.

(c) An interested person's presentation or dialogue during a question and answer session where the audience includes a decisionmaker is not an ex parte communication subject to Rule 8.2(c)(2) but must be reported in the same manner as an ex parte communication pursuant to Rule 8.4(a).

Note: Authority cited: Sections 1701 and 1701.8, Public Utilities Code.
Reference: Sections 1701, ~~and~~ 1701.1 and 1701.8, Public Utilities Code.

8.4. (Rule 8.4) Reporting Ex Parte Communications.

(a) Ex parte communications that are subject to these reporting requirements shall be reported by the interested person, regardless of whether the communication was initiated by the interested person. Notice of ex parte communications shall be filed no more than three working days after the communication and, in addition to the service requirements of Rule 1.9, shall be served electronically on the decisionmakers who participated in the communication. The notice may address multiple ex parte communications in the same proceeding, provided that notice of each communication identified therein is timely. A single notice may address an ex parte communication that applies to more than one proceeding, provided that the notice is filed in each applicable proceeding. The notice shall include the following information:

- (1) The date, time, and location of the communication, and whether it was oral, written, or a combination of both, and the communication medium used;
- (2) The identities of each decisionmaker involved, the person initiating the communication, and any persons present during such communication;
- (3) The topic of the communication, the applicable proceeding numbers, and a description of the interested person's, but not the decisionmaker's, communication including a summary of all of the points or arguments made in the communication, together with any request, recommendation, or advice provided to the decisionmaker, to which description shall be attached a copy of any written, audiovisual, or other material used for or during the communication.

(b) If an ex parte communication is not disclosed as required by Rule 8.2 and this rule until after the Commission has issued a decision on the matter to which the communication pertained, a party not participating in the communication may file a petition to rescind or modify the decision. A petition filed pursuant to this rule shall be filed no later than 30 days after the date the ex parte communication is disclosed.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701 and 1701.1, Public Utilities Code.

8.5. (Rule 8.5) Ex Parte Requirements Prior to Final Categorization.

(a) Applications.

(1) The ex parte requirements applicable to ratesetting or catastrophic wildfire proceedings shall apply from the date the application is filed through the date of the Commission's preliminary determination of category pursuant to Rule 7.1(a).

(2) The ex parte requirements applicable to the category preliminarily determined by the Commission pursuant to Rule 7.1(a) shall apply until the date of the assigned Commissioner's scoping memo finalizing the determination of categorization pursuant to Rule 7.3.

(b) Rulemakings. The ex parte requirements applicable to the category preliminarily determined by the Commission pursuant to Rule 7.1(d) shall apply until the date of the assigned Commissioner's ruling on scoping memo finalizing the determination of category pursuant to Rule 7.3.

(c) Complaints. The ex parte requirements applicable to adjudicatory proceedings shall apply until the date of service of the instructions to answer finalizing the determination of category pursuant to Rule 7.1(b).

Note: Authority cited: Sections 1701 and 1701.8, Public Utilities Code.
Reference: Sections 1701.1(c)(4) and 1701.8, Public Utilities Code.

10.1. (Rule 10.1) Discovery from Parties.

Without limitation to the rights of the Commission or its staff under Pub. Util. Code Sections 309.5 and 314, any party may obtain discovery from any other party regarding any matter, not privileged, that is relevant to the subject matter involved in the pending proceeding, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence, unless the burden, expense, or intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence. Where it would aid in efficiency and transparency, parties may request that the assigned Administrative Law Judge establish a process whereby discovery requests and non-confidential responses from parties are appropriately distributed to other parties in the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

11.5. (Rule 11.5) Motion to Seal the Evidentiary Record.

(a) Motions to seal the evidentiary record or portions thereof may be made at hearing, unless the presiding officer directs otherwise.

(b) If the motion to seal the evidentiary record concerns prepared testimony or other material offered in evidence by written motion ~~pursuant to Rule 13.8(d)~~, it shall be made by concurrent written motion.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

12.1. (Rule 12.1) Proposal of Settlements.

(a) Parties may, by written motion any time after the first prehearing conference and within 30 days after the last day of hearing, propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding. Settlements need not be joined by all parties; however, settlements in applications must be signed by the applicant and, in complaints, by the complainant and defendant.

The motion shall contain a statement of the factual and legal considerations adequate to advise the Commission of the *scope terms* of the settlement, including any separate agreements ~~or financial relationship~~ between the settling parties that relate to issues in the ~~outside the scope of the~~ proposed settlement but are not disclosed in the settlement (e.g., if a party agrees to a proposed settlement as a condition for receiving a benefit not expressed in the proposed settlement's terms) related to issues in the proposed settlement, and of the grounds on which adoption is urged. Resolution shall be limited to the issues in that proceeding and shall not extend to substantive issues which may come before the Commission in other or future proceedings.

When a settlement pertains to a proceeding under a Rate Case Plan or other proceeding in which a comparison exhibit would ordinarily be filed, the motion must be supported by a comparison exhibit indicating the impact of the settlement in relation to the utility's application and, if the participating staff supports the settlement, in relation to the issues staff contested, or would have contested, in a hearing.

(b) Prior to signing any settlement, the settling parties shall convene at least one conference with notice and opportunity to participate provided to all parties for the purpose of discussing settlements in the proceeding. Notice of the date, time, and place shall be served on all parties at least

seven (7) days in advance of the conference, unless all parties stipulate to reduce the time or waive the need for service. Notice of any subsequent settlement conferences may be oral, may occur less than seven days in advance, and may be limited to prior conference attendees and those parties specifically requesting notice.

Attendance at any settlement conference shall be limited to the parties and their representatives.

(c) Settlements should ordinarily not include deadlines for Commission approval; however, in the rare case where delay beyond a certain date would invalidate the basis for the proposal, the timing urgency must be clearly stated and fully justified in the motion.

(d) The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. The Commission may reject any proposed settlement for failure to disclose the information required pursuant to subsection (a) of this rule.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

13.1. (Rule 13.1) Notice.

(a) The Commission shall give notice of evidentiary hearing not less than ten days before the date of hearing, unless it finds that public necessity requires hearing at an earlier date.

(b) Whenever any electrical, gas, heat, telephone, water, or sewer system utility files an application to increase any rate, the utility shall give notice of any public participation hearing that may be set in the proceeding, not less than five nor more than 30 days before the date of the public participation hearing, to entities or persons who may be affected thereby, by posting notice in public places, which may include the website of the utility, and by publishing notice in a newspaper or newspapers of general circulation in the area or areas concerned, of the time, date, and place of hearing. Proof of publication and sample copies of the notices shall be filed within 10 days after publication.

(c) In addition to the notice required by this rule, parties shall provide such notice of hearing as the presiding officer may designate.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 17041, Public Utilities Code.

13.2. (Rule 13.2) Presiding Officer.

When evidence is to be taken in a hearing, the assigned Commissioner or assigned Administrative Law Judge shall preside, as follows:

(a) In an adjudicatory proceeding, the presiding officer shall be either the assigned Commissioner or the assigned Administrative Law Judge, as designated in the scoping memo.

(b) In a ratesetting proceeding, the presiding officer shall be either the assigned Commissioner or the assigned Administrative Law Judge, as designated by the assigned Commissioner prior to the first hearing.

(c) In a quasi-legislative proceeding, the assigned Commissioner shall be the presiding officer.

(d) In a catastrophic wildfire proceeding, the assigned Commissioner shall be the presiding officer, and the assigned Administrative Law Judge shall assist in conducting the proceeding.

~~(d)~~(e) Where the assigned Commissioner is designated as the presiding officer pursuant to this rule, and is absent, the assigned Administrative Law Judge shall preside at hearing to the extent permitted by law.

Note: Authority cited: Sections 1701 and 1701.8, Public Utilities Code. Reference: Sections 1701.8 and 1704, Public Utilities Code.

13.3. (Rule 13.3) Assigned Commissioner Presence.

(a) In any ratesetting proceeding, the assigned Commissioner shall be present at the closing argument, if any, and, if designated as presiding officer, shall be present for more than one-half of the hearing days.

(b) In any ratesetting proceeding, a party may request the presence of the assigned Commissioner at a hearing or specific portion of a hearing. The request may be made in a pleading or a prehearing conference statement. Alternatively, the request may be made by filing and serving on all parties a letter to the assigned Commissioner, with a copy to the assigned Administrative Law Judge. The request should be made as far as possible in advance of the hearing, and should specify (1) the witnesses and/or issues for which the assigned Commissioner's presence is requested, (2) the party's

best estimate of the dates when such witnesses and subject matter will be heard, and (3) the reasons why the assigned Commissioner's presence is requested. The assigned Commissioner has sole discretion to grant or deny, in whole or in part, any such request. Any request that is filed five or fewer business days before the date when the subject hearing begins may be rejected as untimely.

~~(c) In quasi-legislative proceedings, the assigned Commissioner shall be present for hearing on legislative facts (general facts that help the Commission decide questions of law and policy and discretion), but need not be present for hearing on adjudicative facts (facts that answer questions such as who did what, where, when, how, why, with what motive or intent).~~

(dc) For purposes of this rule, "present" or "presence" at a hearing or argument means physical attendance in the hearing room or remote participation, sufficient to familiarize the attending Commissioner with the substance of the evidence, testimony, or argument for which the Commissioner's presence is required or requested.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections ~~1701.2(d), 1701.3(ab) and 1701.4(a)~~, Public Utilities Code.

13.6. (Rule 13.6) Evidence.

(a) In hearings before the Commission, Although the technical rules of evidence, whether statutory, common law, or adopted by court, ordinarily need not be applied in hearings before the Commission, substantial rights of the parties shall be preserved. Although evidence need not be excluded merely by application of rules governing admissibility, competency, weight, or foundation in the record, the rights of parties to meaningfully participate in the proceeding and to public policy protections shall be preserved.

(b) When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly.

(c) The Commission may review evidentiary rulings in determining the matter on its merits. In extraordinary circumstances, where prompt decision by the Commission is necessary to promote substantial justice, the assigned Commissioner or Administrative Law Judge may refer evidentiary rulings to the Commission for determination.

(d) Formal exceptions to rulings are unnecessary and need not be taken.

(e) An offer of proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

13.9. (Rule 13.9) Duty to Meet and Confer.

(a) Unless the assigned Commissioner or assigned Administrative Law Judge orders otherwise, no later than 10 calendar days after the submission of rebuttal testimony the parties must meet and confer, in person or via remote participation to consider the following:

(1) Identifying and, if possible, informally resolving any anticipated motions;

(2) Identifying the facts and issues in the case that are uncontested and may be the subject of stipulation;

(3) Identifying the facts and issues in the case that are in dispute;

(4) Determining whether the contested issues in the case can be narrowed; and

(5) Determining whether settlement is possible.

(b) Notice of the date, time, and place shall be served on all parties in advance of the meet and confer, unless all parties stipulate to waive the need for service. Parties shall notice the service list after the meet and confer has been held.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

13.910. (Rule 13.910) Official Notice of Facts.

Official notice may be taken of such matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code section 450 et seq.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

13.4011. (Rule 13.4011) Additional Evidence.

The Administrative Law Judge or presiding officer, as applicable, may require the production of further evidence upon any issue. Upon agreement of the parties, the presiding officer may authorize the receipt of specific documentary evidence as a part of the record within a fixed time after the hearing is adjourned, reserving exhibit numbers therefor.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

13.4412. (Rule 13.4412) Briefs.

The Administrative Law Judge or presiding officer, as applicable, may fix the time for the filing of briefs. Concurrent briefs are preferable. Factual statements must be supported by identified evidence of record. Citations to the transcript must indicate the transcript page number(s) and identify the party and witness sponsoring the cited testimony. Citations to exhibits must indicate the exhibit number and exhibit page number. A brief of more than 20 pages shall contain a subject index, a table of authorities, and a summary of the briefing party's recommendations following the table of authorities.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

13.4213. (Rule 13.4213) Oral Argument in Adjudicatory Proceeding.

In any adjudicatory proceeding, if an application for rehearing is granted, the parties shall have an opportunity for final oral argument before the presiding officer, if a party so requests within the time and in the manner specified.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701 and 1701.2, Public Utilities Code.

13.4314. (Rule 13.4314) Oral Argument Before Commission.

(a) The Commission may, on its own motion or upon recommendation of the assigned Commissioner or Administrative Law Judge, direct the presentation of oral argument before it.

(b) In ratesetting and quasi-legislative proceedings in which the assigned Commissioner has determined that a hearing is required, a party has the

right to make an oral argument before the Commission, provided that the party makes such request by motion no later than the time for filing opening briefs or, if opening briefs are not permitted by the scoping memo, within the time and in the manner specified in the scoping memo or later ruling in the proceeding. A quorum of the Commission shall be present; however, a Commissioner may be present by teleconference to the extent permitted by the Bagley-Keene Open Meeting Act.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701, 1701.3 and 1701.4, Public Utilities Code.

13.4415. (Rule 13.4415) Submission and Reopening of Record.

(a) A proceeding shall stand submitted for decision by the Commission after the taking of evidence, the filing of briefs, and the presentation of oral argument as may have been prescribed.

(b) A motion to set aside submission for the taking of additional evidence or argument, or for consideration of a settlement under Article 12 shall specify the facts claimed to constitute grounds in justification thereof, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. It shall contain a brief statement of proposed additional evidence, and explain why such evidence was not previously adduced.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

14.2. (Rule 14.2) Issuance of Recommended Decision.

(a) A proposed decision shall be filed no later than 90 days after submission.

(b) A presiding officer's decision shall be filed no later than 60 days after submission.

(c) An alternate proposed decision shall be filed without undue delay.

(d) A draft resolution shall not be filed with the Commission, but shall be served as follows, and on other persons as the Commission deems appropriate:

(1) A draft resolution disposing of an advice letter shall be served on the utility that proposed the advice letter, on any person who served a protest or response to the advice letter, and any person whose name

and interest in the relief sought appears on the face of the advice letter (as where the advice letter seeks approval of a contract or deviation for the benefit of such person);

(2) A draft resolution disposing of a request for disclosure of documents in the Commission's possession shall be served on (A) the person who requested the disclosure, (B) any Commission regulate about which information protected by Public Utilities Code Section 583 would be disclosed if the request were granted, and (C) any person (whether or not a Commission regulate) who, pursuant to protective order, had submitted information to the Commission, which information would be disclosed if the request were granted;

(3) A draft resolution disposing of one or more requests for motor carrier operating authority shall be served on any person whose request would be denied, in whole or part, and any person protesting a request, regardless of whether the resolution would sustain the protest;

(4) A draft resolution establishing a rule or setting a fee schedule for a class of Commission-regulated entities shall be served on any person providing written comment solicited by Commission staff (e.g., at a workshop or by letter) for purposes of preparing the draft resolution.

(5) An alternate draft resolution shall be served consistent with the service of the draft resolution.

(e) Revised proposed decisions and revised alternate proposed decisions pursuant to Rule 14.1(d) shall be served on the official service list for that proceeding upon publication and prior to the Commission meeting where the proposed decision or alternate proposed decision appears on the agenda for that meeting. Failure to serve a revised proposed decision or revised alternate proposed decision shall not constitute grounds for legal error or invalidating a Commission decision.

(f) A proposed decision that grants the relief requested in an uncontested matter, pursuant to Rule 14.6(c)(2) shall be served on the official service list for that proceeding.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 311(d), 311(fg), 1701, 1701.1, 1701.2, 1701.3 and 1701.4, Public Utilities Code.

14.3. (Rule 14.3) Comments on Proposed or Alternate Decision.

(a) Parties may file comments on a proposed or alternate decision within

20 days of the date of its service on the parties.

(b) Except in general rate cases, ~~major plant addition proceedings, and major generic investigations,~~ comments shall be limited to 15 pages in length. Comments in general rate cases, ~~major plant addition proceedings, and major generic investigations~~ shall not exceed 25 pages. Comments shall include a subject index listing the recommended changes to the proposed or alternate decision, a table of authorities and an appendix setting forth proposed findings of fact and conclusions of law. The subject index, table of authorities, and appendix do not count against the page limit.

(c) Comments shall focus on factual, legal or technical errors in the proposed or alternate decision and in citing such errors shall make specific references to the record or applicable law. Comments which fail to do so will be accorded no weight. Comments proposing specific changes to the proposed or alternate decision shall include supporting findings of fact and conclusions of law.

(d) Replies to comments may be filed within five days after the last day for filing comments and shall be limited to identifying misrepresentations of law, fact or condition of the record contained in the comments of other parties. Replies shall not exceed five pages in length.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311(d), Public Utilities Code.

14.4. (Rule 14.4) Appeal and Review of Presiding Officer's Decision.

(a) Any party may file an appeal of the presiding officer's decision within 30 days of the date the decision is served.

(b) Any Commissioner may request review of the presiding officer's decision by filing a request for review within 30 days of the date the decision is served.

(c) Appeals and requests for review shall set forth specifically the grounds on which the appellant or requestor believes the presiding officer's decision to be unlawful or erroneous. ~~Vague assertions as to the record or the law, without citation, may be accorded little weight.~~

(d) Any party may file its response no later than 15 days after the date the appeal or request for review was filed. In cases of multiple appeals or requests for review, the response may be to all such filings and may be filed

15 days after the last such appeal or request for review was filed. Replies to responses are not permitted. The Commission is not obligated to withhold a decision on an appeal or request for review to allow time for responses to be filed.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701.2(a) and (d), Public Utilities Code.

14.5. (Rule 14.5) Comment on Draft or Alternate Draft Resolution.

Any person may comment on a draft or alternate draft resolution by serving (but not filing) comments on the Commission within 20 days of the date of its ~~notice in the Commission's Daily Calendar~~ mailing and publication on the Commission's website and in accordance with the instructions accompanying the notice.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 311 and 1701, Public Utilities Code.

14.6. (Rule 14.6) Reduction or Waiver of Review.

(a) In an unforeseen emergency situation, the Commission may reduce or waive the period for public review and comment on proposed decisions, draft resolutions, and their alternates. "Unforeseen emergency situation" means a matter that requires action or a decision by the Commission more quickly than would be permitted if advance publication were made on the regular meeting agenda. Examples include, but are not limited to:

- (1) Activities that severely impair or threaten to severely impair public health or safety.
- (2) Crippling disasters that severely impair public health or safety.
- (3) Administrative disciplinary matters, including, but not limited to, consideration of proposed decisions and stipulations, and pending litigation, that require immediate attention.
- (4) Consideration of applications for licenses or certificates for which a decision must be made in less than ten days.
- (5) Consideration of proposed legislation that requires immediate attention due to legislative action that may be taken before the next regularly scheduled Commission meeting, or due to time limitations imposed by law.

(6) Requests for relief based on extraordinary conditions in which time is of the essence.

(7) Deadlines for Commission action imposed by legislative bodies, courts, other administrative bodies or tribunals, the office of the Governor, or a legislator.

(8) Unusual matters that cannot be disposed of by normal procedures if the duties of the Commission are to be fulfilled.

A rate increase is not an unforeseen emergency situation.

(b) The Commission may reduce or waive the period for public review and comment on proposed decisions and their alternates, where all the parties so stipulate, and on draft resolutions and their alternates, where all persons identified in subsection (1), (2), (3) or (4) of Rule 14.2(d) so stipulate.

(c) In the following circumstances, the Commission may reduce or waive the period for public review and comment on draft resolutions and proposed decisions, and may reduce but not waive the period for public review and comment on alternate draft resolutions and alternate proposed decisions:

(1) in a matter where temporary injunctive relief is under consideration.

(2) in an uncontested matter where the decision grants the relief requested.

(3) for a decision on a request for review of the presiding officer's decision in an adjudicatory proceeding.

(4) for a decision extending the deadline for resolving adjudicatory proceedings (Public Utilities Code Section 1701.2(i)) or for resolving the issues raised in the scoping memo in a ratesetting or quasi-legislative proceeding (Public Utilities Code Section 1701.5).

(5) for a decision under the state arbitration provisions of the federal Telecommunications Act of 1996.

(6) for a decision on a request for compensation pursuant to Public Utilities Code Section 1801 et seq.

(7) for a decision authorizing disclosure of documents in the Commission's possession when such disclosure is pursuant to subpoena.

(8) for a decision under a federal or California statute (such as the California Environmental Quality Act or the Administrative Procedure Act) that both makes comprehensive provision for public review and comment in the decision-making process and sets a deadline from initiation of the proceeding within which the Commission must resolve the proceeding.

(9) for a decision on a motion for disqualification of a Commissioner.

(10) for a decision in a proceeding in which no hearings were conducted where the Commission determines, on the motion of a party or on its own motion, that public necessity requires reduction or waiver of the 30-day period for public review and comment. For purposes of this subsection, "public necessity" refers to circumstances in which the public interest in the Commission adopting a decision before expiration of the 30-day review and comment period clearly outweighs the public interest in having the full 30-day period for review and comment. "Public necessity" includes, without limitation, circumstances where failure to adopt a decision before expiration of the 30-day review and comment period would place the Commission or a Commission regulatee in violation of applicable law, or where such failure would cause significant harm to public health or welfare. When acting pursuant to this subsection, the Commission will provide such reduced period for public review and comment as is consistent with the public necessity requiring reduction or waiver.

(11) in a catastrophic wildfire proceeding to a period of no less than 15 days at the discretion of the assigned Commissioner.

Note: Authority cited: Sections 1701 and 1701.8, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 306, 311, ~~and~~ 1701 and 1701.8, Public Utilities Code; and Section 11125.5, Government Code.

15.1. (Rule 15.1) Commission Meetings.

(a) Commission Business Meetings shall be held on a regularly scheduled basis to consider and vote on decisions and orders and to take such other action as the Commission deems appropriate. Commission Business Meetings are open to the public, but the Commission may hold closed sessions as part of a regular or special meeting, as permitted by law.

(b) In a ratesetting or catastrophic wildfire proceeding, the Commission may hold a ~~Ratesetting Deliberative M~~ meeting to consider its decision in closed session.

(c) Notice of the time and place of these meetings will appear in the Commission's Daily Calendar.

(d) Notice of a closed session deliberative meeting in a ratesetting or catastrophic wildfire proceeding will be served on the service list for the affected proceeding in advance of the meeting. Failure to serve such notice shall not constitute grounds for legal error or for invalidating a Commission decision.

~~(de)~~ No unscheduled meeting to take action will be held unless: (1) the Commission determines by majority vote, at a meeting prior to the emergency meeting or at the beginning of the emergency meeting, that an unforeseen emergency situation, as defined in the Bagley-Keene Open Meeting Act, exists, or (2) wherever otherwise permitted by the Bagley-Keene Open Meeting Act.

~~(ef)~~ If an alternate is mailed less than 30 days before the Commission meeting at which the proposed decision or draft resolution is scheduled to be considered, the items will continue to be listed on the Commission's agenda, but will be held to the extent necessary to comply with Public Utilities Code Section 311(e).

~~(fg)~~ The Commission shall not take any vote on a matter in which a notice of a prohibited ex parte communication has been filed until all parties to the proceeding have been provided a reasonable opportunity to respond to the communication.

~~(gh)~~ The Commission may meet in closed session to discuss administrative matters. For purposes of this rule, "administrative matters" means matters relevant to effective oversight of the Commission's operations, and does not include any matter that may be pending disposition by a Commission decision or order that is subject to Pub. Util. Code ~~s~~Section 311.

Note: Authority cited: Sections 1701 and 1701.8, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 306, 311, ~~and 1701.1, 1701.3, and 1701.8~~, Public Utilities Code; and Sections 11123, 11125.4, 11125.5 and 11126, Government Code.

15.3. (Rule 15.3) Agenda Item Documents.

(a) Before each Commission meeting, the Commission will make available to the public all draft orders, proposed ~~and draft~~ decisions and their alternates, draft resolutions and their alternates, and written reports appearing on the agenda, except those documents relating to items the Commission considers during its closed session, by publishing them on the Commission's Internet web site.

(b) Agenda item documents are also available for viewing and photocopying (for a fee) at the Commission's Central Files in San Francisco and ~~at the Commission's Los Angeles and San Diego offices,~~ and may be available in certain of the Commission's field offices. If agenda item documents are not ready when the agenda is issued, they will be available at no charge on the day and at the location of the Commission meeting, no later than the start of the meeting.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311.5, Public Utilities Code; Section 11125.1, Government Code.

15.4. (Rule 15.4) Decision in Ratesetting or Quasi-Legislative Proceeding.

The Commission shall vote on its decision in a ratesetting or quasi-legislative proceeding not later than 60 days after issuance of a proposed ~~or draft~~ decision. The Commission may extend the deadline for a reasonable period under extraordinary circumstances. The 60-day deadline shall be extended for 30 days if any alternate decision is proposed. Decisions shall become effective 20 days after issuance, unless otherwise provided therein.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.3(je), 1701.4(ed), and 1705 ~~and 1731(a)~~, Public Utilities Code.

15.5. (Rule 15.5) Decision in Adjudicatory Proceeding.

In an adjudicatory proceeding ~~in which a hearing was held:~~

(a) The decision of the presiding officer shall become the decision of the Commission if no appeal or request for review is timely filed pursuant to Rule 14.4. The Commission's Daily Calendar shall notice each decision of a presiding officer that has become the decision of the Commission, the proceeding so decided, and the effective date of the decision.

(b) The Commission may meet in closed session to consider the decision of

the presiding officer that is under appeal pursuant to Rule 14.4. The vote on the appeal or a request for review shall be in a public meeting and shall be accompanied by an explanation of the Commission's decision, which shall be based on the record developed by the presiding officer. A decision different from that of the presiding officer shall include or be accompanied by a written explanation of each of the changes made to the presiding officer's decision. The decision shall become effective 20 days after issuance, unless otherwise provided therein.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 311(d), 1701.2(da), 1701.2(ee) and 1705, Public Utilities Code.

16.1. (Rule 16.1) Application for Rehearing.

(a) Application for rehearing of a Commission order or decision shall be filed within 30 days after the date the Commission mails the order or decision, or within 10 days of mailing in the case of an order relating to (1) security transactions and the transfer or encumbrance of utility property as described in Public Utilities Code Section 1731(b), or (2) the Department of Water Resources as described in Public Utilities Code Section 1731(c).

(b) Filing of an application for rehearing shall not excuse compliance with an order or a decision. An application filed ten or more days before the effective date of an order suspends the order until the petition is granted or denied. Absent further Commission order, this suspension will lapse after 60 days. The Commission may extend the suspension period.

(c) Applications for rehearing shall set forth specifically the grounds on which the applicant considers the order or decision of the Commission to be unlawful or erroneous, and must make specific references to the record or law. The purpose of an application for rehearing is to alert the Commission to a legal error, so that the Commission may correct it expeditiously.

(d) A response to an application for rehearing is not necessary. Any response may be filed and served no later than fifteen days after the day the application for rehearing was filed. In instances of multiple applications for rehearing the response may be to all such applications, and may be filed 15 days after the last application for rehearing was filed. The Commission is not obligated to withhold a decision on an application for rehearing to allow time for a response to be filed.

(e) An application for rehearing or a response to an application for rehearing shall not exceed 50 pages.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701, 1731, 1732, 1733 and 1735, Public Utilities Code.

(End of Appendix A)